



500.20 Arrest Detention of Foreign Nationals

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POLICY

The Hendry County Sheriff's Office adheres to guidelines set forth by the U.S. Department of State when dealing with foreign nationals regarding law enforcement issues and activities.

PROCEDURE

Whenever a foreign national is arrested or detained, there are legal requirements to ensure that the foreign national's government can offer them appropriate consular assistance. Legal guidelines and answers to questions regarding the foreign national notification requirements are listed in the Consular Notification and Access Manual provided to agency personnel. This Procedure outlines the requirements set forth in that manual. In addition, whenever a foreign national is arrested or detained, it is important that the US Border Patrol is contacted in order to place a detainer on the subject to begin any applicable deportation proceedings, if they qualify.

A. Arrest/Detention of Any Foreign National:

1. Upon arrest/detention of any foreign national, the arresting deputy must notify:
 - a. Their unit supervisor
 - b. The Criminal Investigative Division on call Detective, if the foreign national is from one of the special interest countries (list Consular Notification and Access Manual).
2. The arresting deputy must ensure that the Jail's booking supervisor is aware of the arrestee's status as a foreign national.
3. In all cases, a foreign national must be told of their right of consular notification and access. In most cases, the foreign national then has the option to decide whether to have a consular representative notified of the arrest or detention. In other cases, however, a foreign national's consular officials must be notified of an arrest and/or detention regardless of the foreign national's wishes. Foreign nationals/illegal aliens booked on any charges shall be processed and searched in the same manner as any other arrested person. The lists of **mandatory notification countries and special interest countries** are listed in the Consular Notification and Access Manual per United States Department of State.

B. Contacting the US Immigration and Customs Enforcement (ICE) Law Enforcement Support Center and US Border Patrol Concerning an Illegal Alien

1. When contact is made by a deputy in the field with a foreign national that is **not under arrest** and is in the United States illegally, the deputy will contact the US

Border Patrol Sector Headquarters located in Miami, FL at (954)965-6300 ext. 120, or the ICE Law Enforcement Support Center (LEASC) at (802)872-6020, or via teletype.

- a. The US Border Patrol Sector Headquarters or LEASC contacts the on-call Border Patrol agent for the Florida region in order for contact to be made with the deputy sheriff if the illegal alien qualifies for deportation.
- b. Only a representative from the LEASC, an ICE agent, or the US Border Patrol can authorize a detainer to be placed on the subject. Under no circumstances can a deputy sheriff (except an ICE cross-sworn agent) place a detainer or hold on a suspected foreign national without prior authorization from the LEASC or the US Border Patrol.

C. Booking Officer's Responsibilities:

1. If an arrestee's country of origin is included on the mandatory notification list:
 - a. Immediately notify their unit supervisor a foreign national has been arrested.
 - b. Notify that country's nearest consular official without delay.
 - c. Refer to and follow both United States Department of State Consular Notification and Access and United States Department of State Diplomatic and Consular Immunity
2. When dealing with foreign nationals who have been arrested or detained, the booking officers are to refer to the United States Department of State Consular Notification and Access.
3. In all cases in which notification is made to the national's consular official, the booking officer completes a Foreign National Notification Form which is in United States Department of State Consular Notification and Access and includes it in the arrest/case report.
4. Contact US Immigration and Customs Enforcement (ICE) Law Enforcement Support Center at (802)872-6020 or via teletype regarding the arrest of a foreign national that is in the United States illegally. The LEASC verifies the status of the foreign national and authorizes a detainer or hold placed on the subject.
5. Contact US Border Patrol in order to place a detainer on the subject to begin any applicable deportation proceedings, if they qualify.

D. Access of Consular Officers

1. Subject to local laws and regulation, consular officers shall have the right to:
 - a. Visit the arrestee/detainee without delay, and to converse privately with them.
 - b. Arrange for legal representation, if the foreign national so desires.
 - c. Inquire into any incidents that affect the interest of the involved parties.

E. Diplomatic Identification

1. Diplomatic and consular officers have identification cards issued by the Department of State. Examples of the identification cards are exhibited in the Consular Notification and Access.

F. Diplomatic Immunity

1. Nothing in this Procedure is intended to circumvent or change any aspect of Procedure 500.58: Diplomatic Immunity. Individuals who qualify for diplomatic immunity should be processed per that Procedure.

DEFINITIONS

CONSULAR OFFICER – A consular officer is a citizen of a foreign country employed by a foreign government and authorized to provide assistance on behalf of that government to that government's citizens in a foreign country. Consular officers are assigned to foreign embassies in Washington D.C. or in other locations nationwide. Consular officers are issued identification cards by the Department of State.

DIPLOMAT – An officer of a foreign government assigned to an embassy in Washington, D.C. Many diplomatic officers are authorized by their government to perform consular functions, and thus to act as consular.

DIPLOMATIC IMMUNITY – A principle of international law that protects channels of communication between governments by exempting diplomats from local jurisdiction. It allows diplomats to perform their duties with freedom and security. By affirming this principle, the United States protects its own diplomatic personnel stationed abroad.

FOREIGN NATIONAL – Any citizen of a foreign country or any person who is not a US citizen.

REFERENCES

State/Federal Regulations:

United States Department of State Consular Notification and Access
United States Department of State Diplomatic and Consular Immunity

CFA:

None

Forms:

None

Other Policy/ Procedure References:

500.58 Diplomatic Immunity